UNITED
NATIONS

CAT

Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

Distr.
GENERAL

CAT/C/55/Add.2
21 September 2000

Original: ENGLISH

COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Fourth periodic reports of States parties due in 2000

Addendum

Denmark*

[4 August 2000]

* For the initial report of Denmark, see CAT/C/5/Add.4; for its consideration, see CAT/C/SR.12 and 13 and Official Records of the General Assembly, Forty-fourth Session, Supplement No. 46 (A/44/46), paras. 94-122. For the second periodic report, see CAT/C/17/Add.13; for its consideration, see CAT/C/SR.229 and Add.2 and Official Records of the General Assembly, Fifty-first Session, Supplement No. 44 (A/51/44), paras. 33-41. For the third periodic report, see CAT/C/34/Add.3; for its consideration, see CAT/C/SR.287 and 288 and Official Records of the General Assembly, Fifty-second Session, Supplement No. 44 (A/52/44), paras. 171-188.

GE.00-44571 (E)

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Introduction

1. This report is submitted in pursuance of article 19 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force with respect to Denmark on 26 June 1987. The report is organized in conformity with the general guidelines regarding the form and content of periodic reports to be submitted by States parties under article 19 (1) of the Convention (CAT/C/14/Rev.1). Reference is made to the general description of Danish society in the core document (HRI/CORE/1/Add.58).

2. The report deals with changes in legislation and legal and administrative practice relating to the individual material provisions of the Convention that have occurred since the Government of Denmark submitted its third periodic report (CAT/C/34/Add.3). To the extent that no changes have occurred in legislation and legal practice since Denmark submitted its third report reference is made to Denmark's previous reports.

3. Statistical information is provided in annexes 1-5. Annex 6 contains information provided by the independent Rehabilitation and Research Centre for Torture Victims (RCT) on its activities. RCT and the International Rehabilitation Council for Torture Victims (IRCT) are financially subsidized by the Government. In 1999 RCT received DKK 90 million and IRCT DKK 6.2 million. Three further rehabilitation centres for torture victims receive approximately DKK 6 million together annually.*

I. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS IN RELATION TO THE IMPLEMENTATION OF THE CONVENTION

Articles 1 and 2

4. No new information.

Article 3

5. According to section 7 (1) of the Aliens Act (*udlændingeloven*), an alien is issued with a residence permit if the alien is covered by the Convention of 1951 relating to the Status of Refugees. The Refugee Board (*Flygtningenævnet*), which makes the final decision in asylum cases in the second instance, has stated that a residence permit pursuant to section 7 (1) of the Aliens Act is granted, inter alia, in cases involving a risk of torture, and where the persecution can be considered as falling within the Refugee Convention.

6. According to section 7 (2) of the Aliens Act, a residence permit is issued to an alien who does not fall within the Refugee Convention but who, for reasons similar to those listed in the Convention or for other weighty reasons resulting in a well-founded fear of persecution or similar outrages, ought not to be required to return to his country of origin (de facto status).

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* See list of annexes at end of document.

7. The general notes to the amendment of section 7 (2) of the Aliens Act effected by Act No. 473 of 1 July 1998 state that it is assumed that the de facto provision is administered in accordance with, inter alia, articles 3 and 16 of the Convention against Torture. It also appears from the general notes that it will remain so that the individual's well-founded fear of outrages on return that may lead to grant of asylum can be either an objectively based assumption that the asylum-seeker will be subjected to outrages on return, or the individual's considerable subjective fear as a consequence of the outrages to which the alien has been subjected prior to his flight to Denmark. It further appears that a residence permit can still be issued under the de facto provision, e.g. to victims of torture. The Refugee Board has stated that in cases where a risk of torture exists, its practice is to grant a residence permit under section 7 (2) of the Aliens Act if the persecution cannot be deemed to fall within the Refugee Convention.

8. In cases where it is found as a fact that the asylum-seeker has been subjected to torture, the asylum-seeker's obvious subjective fear, together with the fact that the asylum-seeker has previously been subjected to torture, will also, according to current practice, result in the asylum-seeker being deemed to fall within section 7 (2) of the Aliens Act, although a return is deemed not to entail any risk of further persecution. When assessing whether to grant a residence permit, the Refugee Board also emphasizes the nature of the torture, including the extent, severity, frequency and time of the outrages, seen in relation to the asylum-seeker's departure. Torture that has occurred a long time ago will normally not constitute a ground for asylum. The Board has thus refused asylum in some cases where the asylum-seeker had been subjected to torture 7-8 years prior to the application for asylum.

9. Annex 1 gives examples of cases where the Danish Immigration Service (*Udlændingestyrelsen*), which makes decisions in asylum cases in the first instance, has issued residence permits to asylum-seekers presumed to have been subjected to torture.

10. Annex 2 gives examples from the practice of the Refugee Board concerning the scope of application of section 7 of the Aliens Act in cases where torture was relied on as (part of) the asylum motive.

11. To some extent, the Danish Immigration Service, institutes medical and torture examinations of asylum-seekers. Reference is made to Denmark's third periodic report, Part II, paragraphs 17 and 18.

12. The Danish Immigration Service states that the institutes of forensic medicine are still requested to carry out torture examinations of asylum-seekers to the extent required by the Immigration Service. The number of requests varies, but is typically between 20 and 50 a year.

13. The Refugee Board states that in situations where the Board is in doubt about the correctness of the asylum-seeker's evidence on torture, the Board can institute a torture examination. In such situations, the Board chooses either to remit the case so that the Danish Immigration Service can institute the torture examination, or the Board itself institutes the examination. When the Board institutes a torture examination, the Danish Immigration Service is contacted and requested, via the Institute of Forensic Medicine (*Retsmedicinsk Institut*), to have a detailed examination of the asylum-seeker carried out to assess whether any clinical

findings can be characterized as caused by physical torture. In connection with the Board's decision to adjourn the case pending a torture examination, the asylum-seeker's consent is procured.

14. The Danish Immigration Service then contacts the Institute of Forensic Medicine at Copenhagen University, Aarhus University or the University of Southern Denmark, depending on the asylum-seeker's place of residence. The examinations are carried out with the assistance of interpreters so that the asylum-seeker explains his situation to a doctor. For a torture examination, a doctor will make a physical examination after an interview in which the asylum-seeker explains what he has been subjected to. An examination will also be made at the Clinic of Forensic Psychiatry (*Retspsykiatrisk Klinik*) where a psychiatric certificate is prepared. Moreover, other specialist examinations may be made.

15. In certain situations, the asylum-seeker has contacted Amnesty International's medical group. In such cases, the report of the medical group is included in the basis for deciding the case.

16. Where the Danish Immigration Service or the Refugee Board refuses to grant a residence permit to an alien under sections 7 or 8 of the Aliens Act (asylum), and where it is thus not possible to assume any risk of torture, according to section 32 a of the Aliens Act, which was inserted by Act No. 482 of 24 June 1992, the refusal also has to include a decision as to whether section 31 of the Aliens Act will prevent the alien from being returned if he does not leave voluntarily.

17. Pursuant to section 31 (1) of the Aliens Act, an alien may not be returned to a country in which he will risk persecution for the reasons set out in article 1 A of the Refugee Convention, or in which the alien will not be protected against being sent on to such country.

18. Pursuant to section 31 (2) of the Aliens Act, the prohibition against return provided for in subsection (1) applies correspondingly if the circumstances mentioned in section 7 (2) of the Aliens Act exist. This does not apply, however, if definite reasons are found for assuming that the alien presents a risk to Denmark's national security or if, after final conviction for a particularly dangerous crime, the alien must be assumed to present an immediate danger to the life, body, health or liberty of other persons. The provision must, however, be applied in compliance with Denmark's international obligations, including the prohibition, from which no derogation is possible, to be inferred from, inter alia, article 3 of the European Convention on Human Rights and article 3 of the Convention against Torture on return to a country where the alien is at risk of torture or inhuman or degrading treatment or punishment.

19. The prohibition against return under section 31 of the Aliens Act applies to the return of all aliens and not only the return of persons with a residence permit issued under section 7 or 8 of the Aliens Act (asylum). If an alien who has been refused asylum or is otherwise not entitled to stay in Denmark relies on section 31 in connection with his departure, the police can refer the case to the Danish Immigration Service or the Refugee Board in the form of a request for resumption of the asylum case or an application for asylum, respectively.

20. Act No. 421 of 1 June 1994 and Act No. 33 of 18 January 1995 introduced a provision in section 33 (7) of the Aliens Act, according to which an application for reconsideration of a decision under section 7 only suspends enforcement of the decision with a view to the time limit for departure if the authority that made the decision whose reconsideration is requested so decides. If the alien's time limit for departure has been exceeded, an application for reconsideration does not suspend enforcement of the decision.

21. If it turns out after expiry of the time limit for departure that new, relevant information comes to light in the individual case, or where, owing to events in the country of origin a new situation exists, or there is a decisive change of the situation in relation to the returning country, the immigration authorities may decide to resume specific cases and permit the alien(s) in question to remain in Denmark during examination of the cases, and the National Police, which are responsible for returning aliens, can stay the arrangements for return in general for a large or small group of cases on the basis of a request from the immigration authorities.

22. If an alien holding a residence permit for Denmark is subsequently expelled by court judgement because of an offence, the expulsion implies lapse of the residence permit previously issued (cf. section 32 of the Aliens Act). This also applies if the expelled alien holds a residence permit for Denmark under section 7 of the Aliens Act (asylum).

23. The prohibition against return under section 31 of the Aliens Act also applies in case of return of expelled aliens.

24. It should be noted in this connection that in a concrete case the Refugee Board had serious misgivings about deeming an alien who was a victim of torture to fall within section 31 (2), second sentence, of the Aliens Act, regardless of the gravity of the crimes committed in Denmark. In this connection reference is made to annex 2, paragraph 7, of Denmark's third periodic report.

25. Act No. 473 of 1 July 1998 made various amendments to the Aliens Act. The National Police have stated that police procedures concerning the treatment of cases of expulsion of aliens holding a residence permit under section 7 or 8 of the Aliens Act were changed as a consequence of the passing of this Act, which entered into force on 3 July 1998.

26. Under the rules then applicable concerning expulsion by judgement, the decision on expulsion of aliens had to include information relating to asylum law as to whether the alien could be deemed to risk persecution in his country of origin (cf. section 26 (1) (v) of the Aliens Act then in force). For the purpose of this assessment, the Refugee Board would issue an opinion (cf. section 57 (1) of the Aliens Act then in force).

27. The above amendment means that the courts no longer have to assess whether there is a risk that an alien will suffer harm in his country of origin or other countries in which the alien may be expected to take up residence, if such risk falls within section 7 (1) and (2) of the Aliens Act (cf. section 26 (1) (vii) of the Aliens Act).

28. As part of this amendment, a new section 49 a was inserted into the Aliens Act under which, prior to the return of an alien who has been issued with a residence permit under section 7

or 8 and who has been expelled by judgement, the Danish Immigration Service must decide whether the return will be contrary to section 31, unless the alien consents to return. A decision to the effect that the alien cannot be returned must also include a decision on issue or refusal of a residence permit under section 7 of the Aliens Act. One result of this amendment was that the Refugee Board no longer needed to issue an opinion under section 57 (1) of the Aliens Act then in force, for which reason this provision was repealed.

29. A decision made by the Danish Immigration Service under section 49 a to the effect that a return will not be contrary to section 31 is automatically deemed to be appealed to the Refugee Board, and the appeal suspends enforcement (cf. section 53 a (2) of the Aliens Act).

30. According to the *travaux préparatoires* of the provision of section 49 a, it is incumbent on the police to initiate the procedure under section 49 a of its own volition prior to the time of release (on parole) for the purpose of procuring the alien's consent to the return or of submitting the question whether a return would be contrary to section 31 to the Danish Immigration Service. To ensure, to the extent possible, that it has been clarified at the time of release (on parole) whether the return can be effected, the procedure must be initiated at least six months prior to the time of release (on parole). If a decision on expulsion has been made on the basis of quite short-term custodial sentences, it is presupposed that the procedure is initiated as soon as a final judgement has been pronounced so that any period of custody under section 35 of the Aliens Act becomes as short as possible.

Article 4

31. No new comments.

Article 5

Danish criminal liability for acts of torture abroad

32. On 7 November 1998, 15 resident persons originating from Chile laid an information against Chile's former President, Augusto Pinochet, with the Danish Director for Public Prosecutions accusing Pinochet of torture and other inhuman and degrading treatment in the years 1973-1988 in Chile. The Chilean residents requested that Denmark institute an investigation against Augusto Pinochet and that a request of extradition for prosecution in Denmark be made.

33. On 3 December 1998 the Director of Public Prosecutions (*rigsadvokaten*) stated that he found no basis for requesting extradition of Augusto Pinochet for prosecution in Denmark, as there is no Danish jurisdiction for the offences involved in the information.

34. The Chilean residents appealed this decision to the Danish Ministry of Justice, which stated on 29 January 1999 that the Ministry found no basis for altering the decision of the Director of Public Prosecutions. The Ministry of Justice thus endorsed the opinion of the Director of Public Prosecutions, according to which there is no Danish jurisdiction in the matter. The decision of the Ministry of Justice contains a detailed discussion of articles 5, 6 and 7 of the Convention, including particularly article 5 (1) (c). At the same time, the Ministry of Justice

requested the Director of Public Prosecutions to take steps to seek further information on the matters involved by the information - subject to the consent of the Chilean residents. The Director of Public Prosecutions was also requested, on the basis of such material, to consider the possibilities of seeking to include the matters reported in any prosecution in another country.

35. A report concerning an interrogation of one of the Chilean residents was then forwarded to the Spanish authorities in order, if possible, to include the matters in the criminal proceedings against Pinochet being conducted in Spain. The Ministry of Justice is considering whether the Chilean authorities should be contacted concerning the prosecution of Mr. Pinochet.

Article 8

36. By way of introduction, please refer to paragraph 17 of Denmark's second periodic report (CAT/C/17/Add.13) and paragraphs 38-39 of Denmark's third periodic report (CAT/C/34/Add.3).

37. On 26 May 2000 the Danish Parliament passed a bill (L 245) amending Act No. 1099 of 21 December 1994 on prosecution by the International Criminal Tribunal for the Former Yugoslavia. The purpose of the amendment is to implement the amendments of the Act on prosecution by the ICTY that are necessary in order for Denmark to make a general agreement with the Tribunal to transfer convicted offenders from the Tribunal for enforcement of the sentence in Denmark.

Article 9

38. No new information.

Article 10

Training of the police

39. As stated in Denmark's third periodic report (CAT/C/34/Add.3, para. 42) tuition in "Human Rights" has been introduced as an independent subject in the basic training of the police. This tuition is given by representatives from The Danish Centre for Human Rights (*Det Danske Center for Menneskerettigheder*) and the Rehabilitation and Research Centre for Torture Victims (*Rehabiliterings- og Forskningscentret for Torturofre*).

40. In collaboration with the Documentation and Advisory Centre on Racial Discrimination (*om Dokumentations- og rådgivningscentret om Racediskrimination*), another NGO and the National Commissioner of Police carried out a training programme called NAPAP (NGO And Police Against Prejudice) in 1999. The purpose of the training was to help the staff of the Copenhagen Police to perform their job professionally and competently in a culturally broad society so as to create mutual understanding, confidence and cooperation between the police and ethnic minorities. The programme was partially funded by the EU, and eight other EU member States participated in the project. The Danish programme consisted of 12 three-day courses, and it was attended by a total of 156 policemen from the Copenhagen Police.

41. With reference to paragraphs 44 and 45 of Denmark's third period report (CAT/C/34/Add.3), an illustrated textbook concerning police self-defence holds and techniques, including the use of handcuffs and police truncheon, was published in 1998. The findings of the medical review of the self-defence holds and techniques of the police, carried out in 1995-1996, have been incorporated into the textbook so that in the few cases in which, on a medical assessment or for other reasons, special care must be taken in the use of holds and techniques this has been stated in the texts of the relevant illustrations and also highlighted by a special font. The textbook has been distributed to all police districts and is used both in the basic Police Academy training of police candidates and in the courses for police officers on tactics and operative maintenance.

42. Since 1994, Danish police have been prohibited from using the "fixed leg lock", and the use of this particular kind of leg lock is consequently not included in the training or the textbook. Since Denmark's latest periodic report, the National Commissioner of Police has not received any reports from the police districts or from the District Public Prosecutors on incidents in connection with the use of "fixed leg lock", which have given rise to complaints or considerations of disciplinary proceedings.

43. In connection with the examination of a specific complaint in which a Peruvian national broke his arm when placed in a detention cell, the District Public Prosecutor for Copenhagen requested the National Commissioner of Police to consider describing in the pamphlet on police self-defence holds and techniques how the intake of alcohol can influence the threshold of pain, and to consider whether the opinion of the Medico-Legal Council (*Retslægerådet*) in that particular case might give rise to changes in the section of the pamphlet that describes arm twisting holds. On 23 May 2000 the Director of Public Prosecutions endorsed the decision made by the District Public Prosecutor in the case, and against this background the National Commissioner of Police is considering a change of the pamphlet on police self-defence holds and techniques.

Composition of the police

44. Reference is made to paragraph 43 of Denmark's third periodic report (CAT/C/34/Add.3). In recent years, at every occasion relating to recruitment for the police force, the National Commissioner of Police has emphasized his desire for a broadly composed police force in relation to ethnic multiplicity in view of the aim that the police force should reflect the composition of the population as far as possible, inter alia through representation of ethnic minorities. This has been done in connection with direct advertising, press releases in general, and particularly in connection with press releases on the occasion of appointment of new police officers and their start at the Police Academy.

45. In addition to the assistance given by the National Commissioner of Police towards establishing and implementing an evening class course aiming to qualify young people of an ethnic background other than Danish to seek employment with the police, etc., the National Commissioner of Police has similarly assisted the Danish Refugee Council (*Dansk Flygtningehjælp*) in establishing a similar eight-month course. At present no enrolments have been made for this course.

46. In February 2000, at a conference on ethnic equality, etc., held by the Council for Ethnic Equality (*Rådet for Etnisk Ligestilling*), the National Commissioner received a "baton" implying that in the year 2000 the National Commissioner of Police will focus on the issue of appointment to the police in general of a larger proportion of persons having an ethnic background other than Danish. The purpose of the project is partly to make young people with an ethnic background other than Danish interested in the police as a place of work, partly to identify any internal barriers in the police force keeping young people with an ethnic background other than Danish from seeking employment with the police.

Danish Immigration Service

47. Examination of asylum applications in the first instance is carried out by the Danish Immigration Service on the basis of, inter alia, information provided through interviews with the asylum-seeker. The Danish Immigration Service conducts the interviews with the asylum-seeker.

48. The Danish Immigration Service has stated that since the drafting of the third periodic report, the Service has taken several initiatives related to the examination of asylum applications to increase staff focus on and knowledge of potential torture victims. These initiatives include:

(a) All employees who conduct interviews with asylum-seekers as part of the processing procedure for asylum applications are thoroughly trained in interviewing techniques. This training is to give the staff enhanced cultural understanding and insight into psychological mechanisms, including insight into how persons who have been subjected to torture can be expected to react/not to react in the interview situation;

(b) All caseworkers receive a folder with material on torture. The folder includes guidelines on how to interview potential torture victims as well as a copy of selected decisions from the Committee against Torture;

(c) Visits to the Institute of Forensic Medicine are arranged regularly;

(d) In early 2000 the Immigration Service held a theme day on torture with participation from the Institute of Forensic Medicine, the University of Southern Denmark and the Rehabilitation and Research Centre for Torture Victims;

(e) In the spring of 2000, the Immigration Service appointed a reference group on the gathering of background information for use in the examination of asylum applications. The reference group includes representatives of the Danish Centre for Human Rights, the Rehabilitation and Research Centre for Torture Victims, and the International Rehabilitation Council for Torture Victims (IRCT). The task of the reference group is to discuss what information should be provided on the situation in the countries of origin of the asylum-seekers, etc.

Refugee Board

49. The Refugee Board has stated that when the Refugee Board considers appeals of refusals of asylum issued by the Danish Immigration Service, the applicant, together with his assigned counsel, has an opportunity, as a point of departure, to submit his points of view orally at a meeting with the members of the Board. During the Board meeting the assigned counsel and then the representative of the Danish Immigration Service ask questions of the asylum-seeker. In this connection, Board members can also ask questions of the asylum-seeker. Then the assigned counsel and the Danish Refugee Service present their arguments. Finally, the asylum-seeker can make his final comments on the case.

50. Article 3 of the Convention against Torture is part of the applicable law for the activities of the Refugee Board. When members of the Refugee Board and staff for the Refugee Board secretariat are appointed, they are made acquainted with legislation and international conventions, including the provisions of the Convention against Torture.

51. The annual report of the chairmanship of the Refugee Board further describes general asylum law problems and cases of principle that the Board has considered. The 1999 report, which was published in July 2000, thus has a separate section on the Board's examination of cases concerning torture.

Article 11

Act on Enforcement of Punishments, etc.

52. On 26 May 2000, the Danish Parliament passed an Act on Enforcement of Punishments, etc. (in the following referred to as the Enforcement Act) and an act amending various provisions in connection with implementation of the Enforcement Act (cf. Acts Nos. 432 and 433, respectively, of 31 May 2000). The Acts enter into force on 1 July 2001.* The purpose of the Acts is particularly to implement a complete statutory regulation of the enforcement of punishments, etc.

53. The Enforcement Act will apply to enforcement of prison sentences, sentences imposing a fine, suspended sentences and probation orders, community service and preventive detention. The Enforcement Act does not comprise measures in respect of mentally deviant persons under sections 68 and 69 of the Danish Criminal Code (*straffeloven*). The reason is that the general hospital sector and the social authorities are in charge of the implementation of a substantial part of these measures.

54. Further, the question of choice of penitentiary institution is regulated, including the criteria for allocation to an open or closed State prison or a local prison and subsequent transfer between penitentiary institutions. The Enforcement Act results in a relaxation of the conditions

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* Both Acts are based on report No. 1355/1998 on enforcement of punishments, etc., drafted by the Standing Committee on the Criminal Code (*Straffelovrådet*).

for allocating and transferring so-called negatively strong or vulnerable inmates to a closed State prison or a local prison (cf. in this respect also the paragraph below concerning special units for "negatively strong" inmates, i.e. those with the power to exert negative influence on other inmates). The Enforcement Act also governs inmates' rights and duties during their stay in the penitentiary institution. This applies, for example, with regard to access to association with other inmates, co-determination, work, training, leisure time activities and assistance in social and health matters. The Enforcement Act further includes provisions on the inmates' possibilities of contact with the community outside the penitentiary institution, such as right to leave, visits, exchanges of letters, telephone conversations, newspapers and books, etc., and the right to make statements to the media from inside the institution.

55. In addition, the Enforcement Act includes detailed regulation of the conditions for and the method to be applied in case of interference with inmates, that is, the right to search the inmate's person and quarters, photography and taking of fingerprints, use of force, exclusion from association, disciplinary punishment, etc. This also includes rules that strengthen the inmates' possibilities of obtaining compensation for unjustified interference during the serving of the sentence.

56. One provision regulates the question of enforcement of prison sentences in the hostels of the Prison and Probation Service and in institutions, etc., outside the Prison and Probation Service. This provision includes the requirement that convicted young offenders below the age of 18 must be placed in an institution, etc., unless essential considerations of enforcement make placement outside prison inappropriate. This provision must be seen in the light of Denmark's obligations under the United Nations Convention on the Rights of the Child. The question of placement of 15- to 17-year-olds is discussed in detail below.

57. The Enforcement Act also includes rules on questions concerning the release, including supervision, etc., by the probation office on release on parole, conditional pardon and temporary interruption of sentence as well as reporting, etc., in case of violation of terms. Moreover, the Enforcement Act includes examination rules making it obligatory for a prison, on its own initiative, to consider and decide on certain questions of essential importance to the inmate, such as permission to leave, release on parole and transfer to another prison for continued enforcement.

58. The Enforcement Act, moreover, results in an expansion of the inmates' possibilities of bringing before the courts certain vital decisions made as part of the enforcement of the sentence. The administrative decisions that an inmate can require to be brought before the courts are decisions that are similar to criminal proceedings or are otherwise of an especially interfering nature for the inmate. This includes decisions on calculation of sentences, retention of letters in consideration of the person injured by the offence, certain disciplinary punishments, confiscation and forfeiture, setting-off of compensatory amounts, refusal of and recommitment after release on parole and recommitment of a person subject to a conditional pardon as well as decisions on refusal of compensation for unjustified serving of a prison sentence for too long or segregation in a special cell as a disciplinary punishment for more than seven days.

59. The Act amending various provisions in connection with implementation of the Enforcement Act includes rules on a scheme of release on parole for persons sentenced to life imprisonment, according to which release on parole may be possible when 12 years of a life sentence have been served. In this connection the Enforcement Act includes rules on the duty to decide administratively on the question of release on parole again not later than one year after a decision refusing release on parole. In addition, it is possible to demand judicial review of decisions on refusal of release on parole when 14 years of the life sentence have been served.

60. The preparation of the Enforcement Act is mentioned in Denmark's third periodic report (CAT/C/34/Add.3), paragraph 57.

61. Concerning legislation on pre-trial custody in solitary confinement, reference is made to Part III of the report.

Placement of 15- to 17-year-olds

62. In 1991, Denmark ratified the United Nations Convention on the Rights of the Child. This Convention imposes a duty on the contracting States to ensure that deprivation of a child's liberty is only used as a last resort and for the shortest appropriate period of time, and that any child deprived of his liberty must be separated from adults unless it is considered in the child's best interest not to do so.

63. In connection with Denmark's ratification of this Convention, amended rules were introduced on the placement of young detainees, particularly so that the young offenders' association with others was subject to increased control, and special units were set up for young detainees at the Blegdamsvejen Prison and the Søbysøgård State Prison.

64. In the period from January 1994 to August 1996, these special units accommodated two to four young offenders on average. Experience showed that the scheme of special youth units entailed great disadvantages to the young offenders, particularly apparent in that the young offenders felt isolated both in relation to the other inmates and in relation to their families and relatives. Due to the distance to their home region it was often difficult for them to receive visits. This was inexpedient as this group in particular needs as close ties with their families as possible. Furthermore, these young offenders require many resources and are unresponsive to offers of education and work, and with the facilities available it was impossible to provide suitable motivation of the young offenders. They also felt encouraged to arrange their everyday lives in accordance with a special youth culture, expressing itself as a lack of understanding of cleaning, clearing up and general hygiene and the use of keeping their surroundings intact, etc. From stays at other institutions, these young offenders are used to receiving much support from teachers and therapists, whereas in the prison they had to live with self-management of their own affairs.

65. Against that background it was decided to change the placement scheme for the 15- to 17-year-olds and close down the special youth units at the Blegdamsvejen Prison and the Søbysøgård State Prison. This change became effective in January 1999.

66. Accordingly, to the extent possible 15- to 17-year-olds will be remanded in alternative custody in the secure social institutions. Those who cannot be remanded in alternative custody are placed in a local prison, as a starting point. To accommodate the requirement of keeping up contact with their families, etc., the local prison chosen should be a local prison near their residence, if possible. It must be assessed, however, on the basis of information available on the current occupancy composition, etc., whether another local prison should be chosen instead.

67. In the individual local prison, after individual assessment, the 15- to 17-year-olds are placed in the unit best capable of fulfilling the requirement of protecting the young offender against unfortunate influence from co-inmates. If there are other inmates below the age of 18, it is assessed specifically whether it is appropriate to place them in the same unit, and whether association between them in general is appropriate.

68. In all cases where young offenders under the age of 18 have been sentenced to imprisonment, it must be assessed whether there is a basis for placing them in a treatment institution or the like under section 49 (2) of the Criminal Code.

69. Fifteen- to 17-year-olds who have to serve in an open prison are usually placed according to a principle of geographic proximity so that they can keep up contact with their families and can be released via educational institutions, social institutions, etc., located close to their residence. The principle of proximity may, however, be deviated from if deemed well founded upon an individual assessment. Upon specific assessment, the young offender will be placed in a unit in the individual open prison, where association with the other inmates is in the young offender's interest and where the requirement of protecting the young offender against unfortunate influence is best met.

70. Fifteen- to 17-year-olds who are to serve their sentences in a closed institution are placed, as formerly, in the Ringe State Prison, which is intended for young criminal men up to 23 years old and for women, with no age limitation, as experiences with this have been good and this prison can offer the young offenders a particularly targeted therapeutic programme.

71. The institutions are further under a duty to provide individual treatment programmes for the young offenders in each institution. The treatment programmes must be based on the individual's motivation and special qualifications. In this connection, the Department of Prisons and Probation (*Direktoratet for Kriminalforsorgen*) has appropriated funds for co-financing programmes.

72. The United Nations Committee on the Rights of the Child has been informed of the changes concerning placement of young detainees in Denmark's second periodic report on the Convention on the Rights of the Child of August 1998.

Special units for negatively strong inmates

73. In recent years, Danish prisons have seen increasing problems with the dominance over and exploitation of co-inmates carried out by "negatively strong" inmates.

74. There are two groups of negatively strong inmates. One group of negatively strong inmates includes those who belong to an organized group of persons, several of whom have been convicted of serious crimes. These persons typically have biker affiliations or affiliations with more organized gang crime, including drug-related crime and mafia-like organizations. The other group of negatively strong inmates consists of persons who - during their incarceration or during previous incarcerations - have exhibited such negative behaviour that the usual means of reaction cannot prevent them from exercising a highly negative influence on their co-inmates.

75. Common to both groups is that during their incarceration they exhibit such a strong negative influence on their co-inmates that they substantially impair conditions for such inmates, inter alia by procuring advantages at the cost of their co-inmates. It was therefore found necessary to separate these negatively strong inmates completely from the other inmates. Consequently, in 1999 the Danish Parliament decided that three units in closed institutions were to be set up for the negatively strong inmates.

76. The purpose of setting up special units for negatively strong inmates is solely to segregate them from the other inmates so that they have no possibility of exercising any negative influence on their co-inmates. According to the rules, placement in or transfer to such unit can be made, if deemed necessary, to prevent outrages against co-inmates or staff.

77. Inmates placed in these units associate with each other. As far as possible, they have the same content in their incarceration as other inmates in relation to work, training, social services, leisure time activities, outdoor exercise, visits, religious services, etc. The inmates also go by the ordinary rules for leave, release on parole, etc.

78. Confinement in these units is only allowed as long as the basis therefor exists. In this connection, the prison has a duty to be aware at all times whether this is the case.

Use of force against inmates

79. Annex 3 gives a survey of complaints from inmates in the period 1997-2000 to the Department of Prisons and Probation concerning unauthorized use of force and outrages, etc., committed by prison officers. It should be noted that complaints of the use of force by prison staff are first examined by the prison institutions, whose decisions can then be appealed to the Department, which thus makes its decision as the second instance. The Department is not aware of the number of complaints that are decided by the prison institutions without being appealed to the Department.

80. Annex 4 lists the use by prison staff of handcuffs, manual force, truncheons and tear gas in the period 1995-1999.

81. Together with the Danish Board of Health (*Sundhedsstyrelsen*), the Department of Prisons and Probation intends to make a medical assessment of the holds used by prison staff on inmates. Basically, the self-defence techniques must be gentle, easy to learn and remember, legally justified and medically approved. Concerning the so-called headlock (*sidehalsgreb*) the Department of Prisons and Probation has notified the institutions of the Prison and Probation Service that the hold should only be used in situations of absolute necessity, as, on request, the Danish body of medical experts has concurred in the discontinuation of the headlock owing to excessive risk of injury. Two new techniques have subsequently been introduced. Before their introduction, these holds were submitted to the Medico-Legal Council, which assessed that both these holds involve an essentially lower risk than the headlock. An initiative has been taken concurrently to train prison staff in the use of the holds in question.

82. Denmark's third periodic report (CAT/C/34/Add.3), paragraph 117, mentions an experiment with a handcuffs transport belt. The experiment yielded good results, and therefore the Department of Prisons and Probation is expecting to decide on the final design of the belt during the autumn of 2000 with subsequent drafting of rules on the use of the belt.

Disciplinary punishments, segregation in solitary confinement and confinement in security and observation cells, etc.

83. No major changes have been made to the rules concerned since Denmark's third periodic report. For a more detailed review of the rules, please refer to the third periodic report (CAT/C/34/Add.3), paragraphs 65-83.

84. Annex 5 gives a survey of disciplinary punishments used and compulsory segregation in solitary confinement in 1999 with the relevant reasons as well as the number of security cell and observation cell confinements.

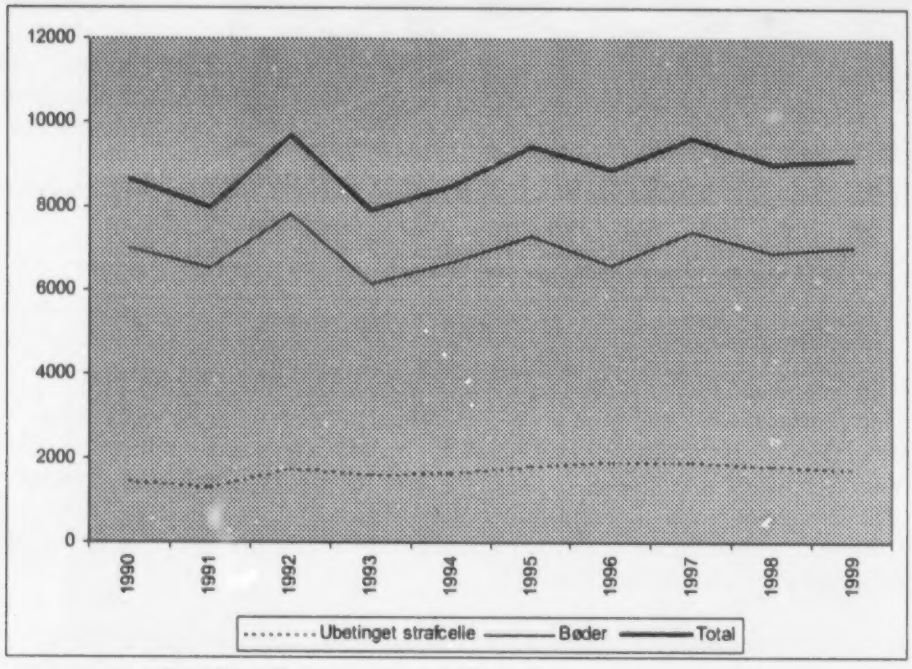
Disciplinary punishments

85. Inmates are subject to disciplinary punishment if they violate the rules of their stay. Such violation may be possession of drugs or alcohol, escape and violence or threats of violence. Depending on the nature and extent of the violation, the punishment may vary from a suspended fine to confinement in a special cell. A fine may correspond to a week's wages at the most, and the maximum duration for confinement in a special cell is normally four weeks.

86. In the past 10 years, the number of special cell confinements has been between 1,500 and 1,900 confinements a year. 1999 saw a total of 1,745 special cell confinements, which is

just under 100 less than in 1998. Compared with 1990, when the number of confinements was 1,458, this is an increase of 19 per cent. In 1999, a total of 7,037 fines were imposed as a disciplinary punishment, which was 77 per cent of all disciplinary punishments. In 1990, the proportion of fines was 81 per cent.

Trend in number of disciplinary punishments, 1990-1999



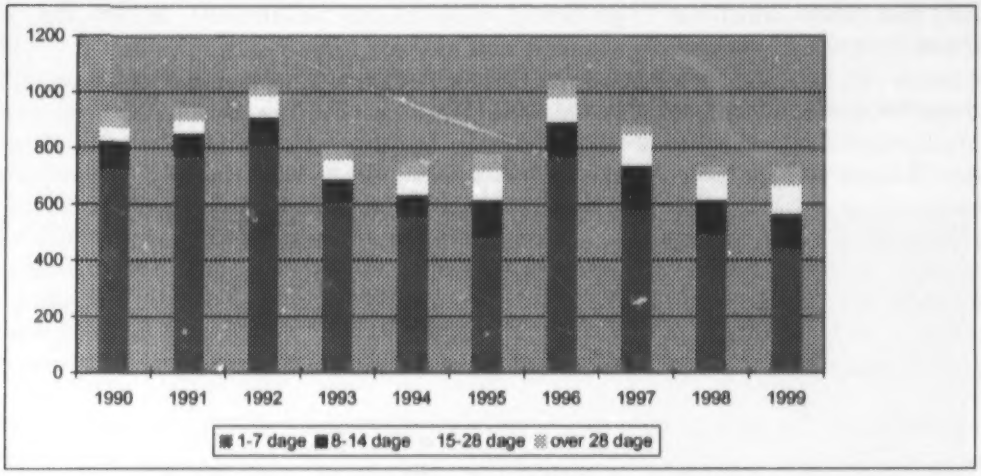
..... Special cell _____ Fines _____ Total

87. In 1999, disciplinary punishments were imposed most frequently for violations of the Criminal Code (35 per cent) and for violations of rules on order and security (30 per cent).

Solitary confinement

88. The Prison and Probation Service may decide that an inmate must remain in solitary confinement for the time being. This may be done, for example, to prevent escape or criminal activities. The reason may also be that it would be obviously unjustifiable to let the inmate involved associate with other inmates. Segregation in solitary confinement differs from a disciplinary punishment by its prophylactic and forward-looking purpose. The inmate is segregated in solitary confinement in a special unit of the prison or in his own cell.

Trend in the number of terminated compulsory solitary confinements, 1990-1999



1-7 days 8-14 days 15-28 days over 28 days

89. In 1999 the Prison and Probation Service made a decision on solitary confinement in 733 cases, which corresponds to the number in 1998. Thus, the drop in recent years in the number of confinements has been replaced by stagnation. In 1999, 60 per cent of the confinements were terminated within seven days. In 66 cases the confinement lasted for more than 28 days. The average duration of confinements of more than 28 days is 46 days. As in previous years, the main reason for solitary confinement in 1999 was to prevent criminal activity or that continued association was unjustifiable.

90. One case concerning solitary confinement of prolonged duration is pending before a Danish court, and another case concerning pre-trial solitary confinement is pending before the European Court of Human Rights.

91. The Committee has expressed its concern that solitary confinement is used as a measure against inmates who refuse to work (see A/52/44, para. 181). Today, the imposition of solitary confinement on inmates who refuse to work is used considerably less than before. Whereas there were 197 confinements on the grounds of refusal to work in 1996, there were only 85 confinements in 1999. The vast majority of confinements (71 per cent) had been terminated within three days. Reference is also made to Part III of the report.

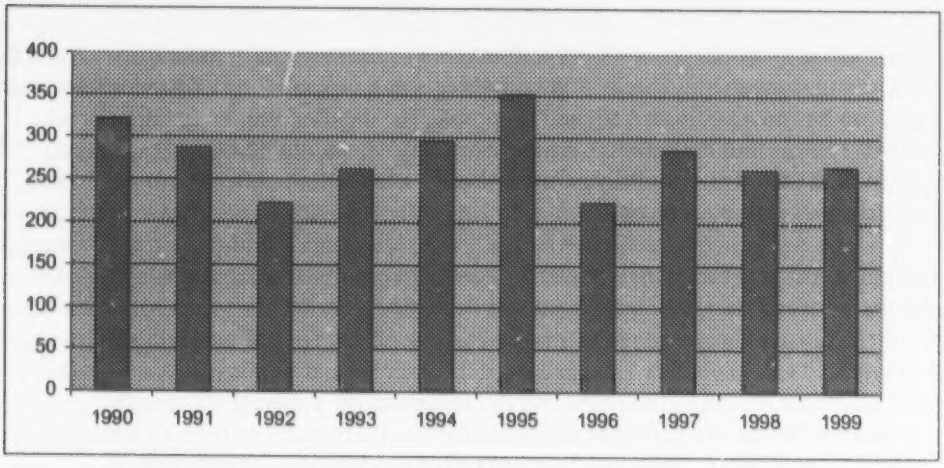
Confinement in a security cell

92. Most closed prisons and some of the large local prisons have security cells. A security cell can be used if necessary to avert imminent violence, overcome violent resistance or prevent self-mutilation or suicide.

93. The number of confinements in a security cell has fluctuated over the past 10 years. The lowest confinement figure in the period was recorded in 1992 with 223 confinements, and the highest confinement number was in 1995 with 352 confinements. During the latest three years, the confinement number has stabilized. In 1999 the number of confinements was 266, corresponding to the figure for 1998. Since the third quarter of 1999, the use of handcuffs instead of security cell confinement has been reported as security cell confinement. Therefore, as from the third quarter of 1999, such cases will statistically be recorded as security cell confinements.

94. Since 1992 the number of restraints in connection with security cell confinement has been recorded. In 1999 and 1998, restraint was used in 56 per cent of all security cell confinements.

Terminated security cell confinements, 1990-1999



Confinement in an observation cell

95. An inmate can be confined in an observation cell to prevent malicious damage, maintain peace and security in the institution, or where special observation is deemed to be necessary, e.g. at the suspicion of drug intake.

96. In recent years some institutions have converted security cells to observation cells, and a number of open prisons have had some solitary confinement cells approved for use for short-term observation cell confinements. Confinement in such cells has subsequently been recorded statistically as confinement in an observation cell.

97. As from the second half of 1994, the number of observation cell confinements has been recorded for statistical purposes. In 1995 there were 875 confinements, and the 1998 and 1999 figures were 938 and 943 confinements, respectively.

98. It should be noted that no confinement in a maximum security cell has occurred since Denmark's submission of the third periodic report.

Initiatives concerning staff at the places of work of the Prison and Probation Service

99. Denmark's third periodic report (CAT/C/34/Add.3), paragraph 119, mentions a proposal for the contents of courses and guidelines concerning the introduction of a formalized debriefing scheme at all places of work in the Prison and Probation Service. The scheme is to serve as a personal and collegial conflict stand-by arrangement and is to function as a follow-up of extraordinary, acute situations. It has just been decided to make the scheme permanent and expand it to more places of work. The Department has also signed a contract for crisis help with a private firm, according to which employees in a situation of crisis can contact the firm anonymously to get help. The firm can then refer to medical specialists, including psychiatric or psychological specialists, etc., depending on the problem. The help is granted free of charge to the employee regardless of the background of the problem, and whether the problem arose during or outside service.

100. Denmark's third periodic report (CAT/C/34/Add.3), paragraph 120, mentions a working group on customs and standards in connection with threats and violence, etc., from inmates. This working group has now submitted several proposals, the detailed implementation of which the Department of Prisons and Probation is now considering. It should be noted that several senior employees of the Copenhagen Prisons have already attended a one-week course for task force leaders held under police auspices.

101. Furthermore, as part of the Government's aggregate initiatives towards maladjusted young people, the Training Centre of the Prison and Probation Service has received a grant of DKK 1.4 million to finance increased recruitment of prison officers of a multi-cultural background. Increased recruitment is to be achieved through special employment initiatives, assistance from an ethnic equality consultant and the setting-up of a special six-month preparatory course for Danes of a different ethnic background who want to train as prison officers. The first class of about 20 people from the target group is expected to start in October 2000. The criterion for success is recruitment, training and permanent employment of such a large share of prison officers with a multi-cultural background that it reflects the composition in the Danish society. This means that the present 0.5 per cent of prison officers of an ethnic background other than Danish will be increased to about 4 per cent within the next 10 years. Another criterion for success is that at least 50 per cent complete the preparatory course, comprising Danish lessons, an introduction to Danish culture, tasks of the Prison and Probation Service and trainee periods in prisons.

Article 12

102. No new information

Article 13

Extended protection of witnesses

103. An action plan against organized crime and biker crime from March 1995 is mentioned in paragraphs 89-90 of Denmark's third periodic report (CAT/C/34/Add.3). In extension of the action plan, several initiatives have been taken to improve witness protection. The proposals of the action plan concerning exclusion of gang members from court hearings, early court examination of witnesses and extended criminalization of threats, etc., against witnesses have been implemented by Act No. 411 of 10 June 1997 (improvement of police investigation possibilities).

104. Furthermore, Act No. 349 of 23 May 1997 (improvement of legal position of victims of crime) provides for a number of initiatives of importance to witnesses who are also victims. The initiatives include extended access to have an assisting counsel assigned, setting-up of local counselling services for victims and a new extended pilot scheme of mediation in conflict councils. Furthermore a pilot scheme under the Ministry of Health concerning psychologist assistance to victims of violence and other particularly exposed groups has been made permanent.

105. On 18 May 2000 the Danish Parliament passed a bill (L 14) amending the Administration of Justice Act (*retsplejeloven*) and the Criminal Code, cf. now Act No. 428 of 31 May 2000, according to which the courts can make a pre-trial decision on hearing in camera, prohibition against reporting, prohibition against reporting names and on ordering the accused to leave the courtroom while a witness is giving evidence. The new provisions are based on a report on witness protection submitted in June 1998 by a working group under the Ministry of Justice, proposing a number of initiatives to ensure that a witness does not fail to appear for fear of reprisals.

Articles 14-16

106. No new information

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

107. Reference is made to Parts I and III. No additional comments.

III. COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

Incorporation of the Convention

108. When the Committee concluded its examination of Denmark's third periodic report, the Committee recommended that Denmark should consider incorporating the provisions of the Convention into domestic law (see A/52/44, para. 184).

109. The Government is of the opinion that Denmark fully meets the obligations following from the Convention. When Denmark acceded to the Convention, it was ensured that Danish law complied with the provisions of the Convention. It is ensured on a continuous basis that new legislation complies with the provisions of the Convention. Moreover, administrative authorities have a duty - to the extent relevant - to include the Convention in the interpretation and application of Danish law. Similarly, the Convention can be relied on before and is applied by Danish courts in the interpretation and application of Danish law. The Government is therefore of the opinion that the Convention - although not incorporated into Danish law - is a relevant source of law.

110. However, also against the background of the Committee's recommendations, the Government has decided to appoint a committee assigned to consider the issue of incorporation of international conventions on human rights into Danish law.

111. On 17 December 1999 the Ministry of Justice thus appointed the "Committee on incorporation of human rights conventions into Danish legislation (the Incorporation Committee)". The Incorporation Committee is broadly composed and includes representatives of two universities, the General Council of the Bar (*Advokatrådet*), the Danish Association of Judges (*Den Danske Dommerforening*), the Danish Centre for Human Rights, NGOs and ministries.

112. One assignment of the Incorporation Committee is to examine advantages and disadvantages of incorporation of the general human rights conventions into Danish law, including whether the International Covenant on Civil and Political Rights and its Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Elimination of All Forms of Racial Discrimination are suitable for incorporation into Danish law. In this connection the Incorporation Committee is to assess whether incorporation will result in better legal protection for the individual citizen, or whether there are other reasons why it must be deemed necessary or appropriate to incorporate the conventions.

113. The Incorporation Committee held its first meeting in February 2000 and is expected to conclude its work in the first half of 2001.

Incorporation of the definition of torture of the Convention - article 1

114. When the Committee concluded its examination of Denmark's third periodic report, the Committee recommended that Denmark should incorporate into its domestic law provisions on the crime of torture, in conformity with article 1 of the Convention (see A/52/44, para. 185).

115. Reference is made to paragraphs 30-36 of Denmark's third periodic report (CAT/C/34/Add.3), which describe the Danish Government's position on this issue. The Government thus still finds that the Criminal Code must be presumed to provide the requisite authority for imposing a suitably severe penalty in case of torture, including mental torture.

116. Reference is further made to the comments above on the considerations concerning incorporation of the Convention into Danish law.

Use of solitary confinement

117. When the Committee concluded its examination of Denmark's third periodic report, the Committee recommended that the use of solitary confinement be abolished, particularly during pre-trial detention, or at least that it should be strictly and specifically regulated by law (maximum duration, etc.) and that judicial supervision should be introduced (see A/52/44, para. 186).

118. Concerning the use of solitary confinement, on 18 May 2000 the Danish Parliament adopted a bill amending the Administration of Justice Act and the Criminal Code (L 14) and relating, inter alia, to pre-trial detention in solitary confinement (cf. now Act No. 428 of 31 May 2000).

119. The main purpose of the amendment is to obtain a substantial limitation in the use and duration of pre-trial detention in solitary confinement. In view of this, the rules of the Administration of Justice Act on pre-trial detention in solitary confinement have been amended. The new rules on solitary confinement are based on report No. 1358/1988 of the Standing Committee on Administration of Criminal Justice (*Strafferetsplejeudvalget*) on pre-trial custody in solitary confinement, but in several details, including on the use and duration of solitary confinement, the new rules are more strict than the proposals put forward by the Committee.

120. The amendment on solitary confinement includes a specification and tightening of the rules for implementation and continuation of solitary confinement. Moreover, shorter time limits for solitary confinement are introduced. For offences that may entail imprisonment for less than four years, the time limit of eight weeks previously applicable is reduced to four weeks. For offences that may entail imprisonment for four years but less than six years, the time limit of eight weeks is retained. For offences that may entail imprisonment for six years or more - where there has been no time limit so far - a time limit of three months has been fixed. This limit may only be exceeded in rare, exceptional cases if the court finds that essential considerations of clearing-up of the case render continued solitary confinement necessary despite the time in which the detainee has been held in solitary confinement until then.

121. Furthermore, the amendment provides extended access to oral hearing of appeals on solitary confinement and extended access to pre-trial court examination of the person charged and of witnesses for the purpose of lifting the solitary confinement after such securing of the evidence. In addition the administrative rules for treatment of detainees in solitary confinement have been changed to counter the negative effects involved in solitary confinement.

122. Finally, the new rules render it possible for pre-trial detainees to receive special compensation if they have been detained in solitary confinement. A person who has been remanded in custody in solitary confinement by order of the court thus has his sentence reduced by one extra day for every three days or fraction thereof of solitary confinement (that is, three weeks' solitary confinement results in a deduction of four weeks in the custodial sentence imposed).

123. Reference is also made to paragraphs 58-65 of Denmark's third periodic report (CAT/C/34/Add.3).

Segregation of inmates on the ground of refusal to work, etc.

124. When the Committee concluded its examination of Denmark's third period report, the Committee expressed its concern at the use of segregation in solitary confinement, especially as a preventive measure at pre-trial detention, but also as a measure against, e.g., inmates who repeatedly neglect the duty to work (see A/52/44, para. 33, and A/51/44, para. 181).

125. As mentioned above in Part I of the report (ad article 11), solitary confinement for inmates who refuse to work is now used considerably less than previously. Whereas there were 197 solitary confinements on the ground of refusal to work in 1996, there were only 85 solitary confinements in 1999 on that ground. The vast majority of confinements (71 per cent) had been terminated within three days.

126. The Department of Prisons and Probation states that, as a point of departure, neglect of the duty to work should only result in sanctions of a financial nature such as withdrawal of pay and imposition of a fine. However, for reasons of order and security it has been made possible to segregate inmates in solitary confinement in special cases. This can consequently occur at repeated cases of neglect of the duty to work. This possibility may only be used exceptionally in the open prisons. Furthermore, in case of a collective neglect of the duty to work or actions otherwise involving a risk of the order and security of the institution, solitary confinement is a possibility. Otherwise, it is up to the individual prisons to decide where the inmates are to stay during working hours if they refuse to work.

127. For reasons of security and order, the Department of Prisons and Probation finds it necessary to retain the possibility of imposing this measure. The Department receives regular reports from all institutions concerning the use of solitary confinement and carefully monitors the development in the use of this measure.

128. It should be noted that segregation in solitary confinement owing to refusal to work is not a disciplinary (backward-looking and penal) reaction, but a forward-looking measure to counter security and order problems, etc.

129. Concerning the aggregate use of solitary confinement, the Department states that whereas 1,044 decisions on solitary confinement were made in 1996, recent years have seen a considerable drop, and thus solitary confinement was used in 733 cases in 1999. Reference is also made to Part I of the report under the discussion of article 11, where further information is given on the use of solitary confinement.

Use of force by the police

130. When the Committee concluded its examination of Denmark's third periodic report, the Committee recommended that Denmark should reconsider the methods used by police in their treatment of detainees or during crowd control (see A/52/44, para. 187).

131. The National Commissioner of Police continuously monitors the development concerning the use of force by the police in connection with large violent demonstrations or riots, including the type and strength of the force it may prove necessary to apply. In this connection the

National Commissioner of Police endeavours to utilize all the experiences gained with a view to developing the tactically most appropriate task force concept that also satisfies the requirement of protection of human rights.

132. In the light of the experience gained from the unrest in the Nørrebro district of Copenhagen in connection with an European Union referendum in Denmark on 18 May 1993 as well as experience from the United Kingdom, the Netherlands and Germany, the National Commissioner of Police prepared a new tactical task force compendium for mobile units in the spring of 2000, which will be sent to all police districts in Denmark as operative guidelines for handling such problems. The concept is being developed continuously in line with developments in Denmark as well as in other countries.

133. Concerning the question of the use of dogs by the police, the National Commissioner of Police on 22 August 1997 issued regulations on the use of police dogs by the police as a means of force, following discussion with the Ministry of Justice. Reference is made to paragraph 22 of the minutes of the examination of Denmark's third periodic report (CAT/C/SR.288) and the conclusion of the Committee (A/52/44, para. 182). The regulations include both a codification and exemplification of the general substantive requirements of Danish law for the exercise by the police of their powers in relation to the use of means of force as well as international obligations in the field, and a series of formal reporting rules to ensure, inter alia, that the police observes the regulations in practice.

134. It appears from the regulations that the police may only use police dogs as a means of force when such use is deemed necessary, and only when less interfering means and methods are considered insufficient in the specific situation and the use of a police dog does not obviously exceed what is justifiable, taking the situation, the person involved and the interest involved into consideration. Furthermore, before using a police dog as a means of force, the police must indicate clearly to the person involved, if possible, that the police intend to use a police dog if the police directions are not obeyed, and the police must also ensure that the person has a possibility of obeying the directions of the police. The regulations also lay down rules on the power of decision in case of use of a police dog, and on how the dog should be led.

135. On the basis of the reports received by him, the National Commissioner of Police is of the opinion that no facts have come to light that indicate a need for specific rules in Danish legislation on the use of dogs by the police as a means of force or for an amendment of the existing regulations. In this connection, a police commission appointed in the summer of 1998 by the Minister of Justice has as one of its main assignments to consider the need for and, in the event, to draft a proposal for a new codified legal basis for police activities, including police powers to use force.

136. By a judgment of 7 June 1999 in a specific case on compensation after dog bites, the Supreme Court (Højesteret) found that the use of a police dog as a means of force in connection with the implementation of arrests of demonstrators is not in itself contrary to the principle of proportionality in section 758 of the Administration of Justice Act or article 3 of the European Convention on Human Rights.

Complaints against the police

137. The rules for examination of complaints against the police that entered into force on 1 January 1996 were described in Denmark's third periodic report and mentioned during the examination of this report. Reference is made to the report (CAT/C/34/Add.3, paras. 84-87) and to the examination (CAT/C/SR.288, para. 17).

138. With reference to the recommendation of the Committee on the examination of such complaints (A/52/44, para. 187), the police complaints board scheme has been evaluated after the first three-year period as provided at the introduction of the scheme.

139. The National Chairman of the police complaints boards concluded in his report for 1997 that the new scheme is perceived as confidence-inspiring and adequate both by the citizen and the police officer involved. In this connection, the National Chairman attached importance to the fact that the public criticism which had been aimed at the former complaints system had largely ceased after the police complaints boards had been set up.

140. The same general opinion was expressed in the evaluation of the scheme after the period 1996-1998, when both the individual regional police complaints boards and the other authorities and organizations involved in the examination of complaints were consulted. During the evaluation, a few proposals for minor adjustments of the scheme were put forward to facilitate the administrative handling of the complaints, but also the police complaints boards, the General Council of the Bar and the Danish Association of Assigned Counsel (*Landsforeningen af beskikkede advokater*) expressed as their view that there was no basis for changing the existing rules.

141. The conclusion of the evaluation was that the police complaints board scheme substantially functions satisfactorily and has helped increase popular confidence in the adequate examination of complaints against the police. The scheme is therefore continuing in its present form for the time being.

Complaints from inmates

142. When the Committee concluded its examination of Denmark's third periodic report, the Committee recommended that Denmark should ensure that complaints of ill-treatment lodged by detainees are handled by independent bodies (see A/52/44, para. 188).

143. As mentioned above under article 11, the Danish Parliament has just adopted an Act on Enforcement of Punishments (L 145, in the following referred to as the Enforcement Act). With the Enforcement Act, inmates gain extended access to a review of decisions made by the Prison and Probation Service as part of the enforcement. After the entry into force of the Enforcement Act in July 2001, inmates can require that administrative decisions that are similar to criminal proceedings or are otherwise of an especially interfering nature for the inmate be brought before the courts pursuant to section 112 of the Enforcement Act.

144. The decisions involved concern:

- calculation of the length of sentences;
- retention of letters in consideration of victim of the offence;
- disciplinary punishment in the form of confinement in a special cell;
- confiscation and forfeiture;
- setting-off of compensatory amounts;
- refusal of and recommitment after release on parole and recommitment of a person subject to a conditional pardon; and
- decisions on refusal of compensation for unjustified serving of a prison sentence for too long or confinement in a special cell for more than seven days.

145. Pursuant to the Ombudsman Act (*ombudsmandsloven*), Act No. 473 of 12 June 1996, the decisions of the Prison and Probation Service can further be brought before the Parliamentary Ombudsman to the extent that the new rules do not provide access to extended judicial review.

146. Thus, as previously, the decisions not comprised by the amendment and therefore not capable of being brought before the courts under the Enforcement Act can be brought before the Parliamentary Ombudsman, and the Ombudsman can also take up a matter for investigation of his own volition. The Ombudsman assesses whether authorities or persons falling within the sphere of the Ombudsman have acted contrary to applicable law or have otherwise been guilty of errors or omissions in the execution of their duties. Against that background, the Ombudsman can criticize, make recommendations, and in general state his opinion in the matter. If the Ombudsman's investigation of a matter shows that errors or omissions of major importance must be assumed to have been made, the Ombudsman must notify the matter to, inter alia, the Legal Affairs Committee of the Danish Parliament (*Folketingets Retsudvalg*) and the relevant minister.

IV. GREENLAND

147. The Commission on Greenland's Judicial System (*Den Grønlandske Retsvæsenskommission*) is expected to hold its last meeting in January 2001. The report of the commission will then be edited and translated into Greenlandic. The report is expected to be submitted in the second half of 2001 and will be forwarded to the Committee against Torture when it is available.

Provisions on institutional stays in Greenland

148. The Chief Constable of Greenland has the overall responsibility for enforcement of measures under the Greenlandic Criminal Code (*kriminalloven*). In Greenland, judgements of

custodial punishment are normally enforced in three open institutions. Furthermore, to a limited extent, offenders may be confined in police detention cells, for example for serving short-term sentences, and they may be assigned to the hostels of the Prison and Probation Service.

149. If the measures must be enforced in a closed institution, the convicted offenders are transferred to the Herstedvester State Prison in Denmark.

150. Pursuant to the Greenlandic Criminal Code and by authority from the Ministry of Justice, the Chief Constable of Greenland in 1999 drafted an Order on Institutional Stays in Greenland. The Order lays down the overall rules concerning rights and duties of convicted offenders and forms the basis of detailed regulation laid down by the Chief Constable in separate provisions on the issues of leave, visits, searches, use of force, segregation in solitary confinement, and the use and enforcement of disciplinary punishments.

151. In connection with the above provisions, the directors of the three institutions have laid down rules that apply in the respective institutions. The rules take into account the special circumstances in Greenland. Staff in each institution are taught the rules before their entry into force.

152. Both the Order and the rules laid down by the Chief Constable of Greenland and the local institutional directors have been translated into Greenlandic and are available to the convicted offenders.

List of annexes

1. Examples from the practice of the Immigration Service of cases where the service has issued residence permits to asylum-seekers presumed to have been subjected to torture.

2. Examples from the practice of the Refugee Board concerning the scope of application of section 7 of the Aliens Act in cases where torture was relied on as (part of) the asylum motive.

3. Complaints from inmates of unjustified use of force and outrages, etc., committed by staff. Cases decided by the Department of Prisons and Probation in 1997, 1998, 1999 and 2000 (until 22 May 2000).

4. Survey of the use of handcuffs, manual force, truncheon and teargas in the period 1995-1999.

5. Survey of number of disciplinary punishments, compulsory segregation in solitary confinement, security cell confinements and observation cell confinements in 1999.

6. Contribution by the Rehabilitation and Research Centre for Torture Victims.

The annexes are available for consultation in the files of the secretariat.